IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.73 OF 2004

Jagannath Bapu Lavate ...Appellant

Vs.

Dattu Bapu Lavate & Anr. ...Respondents

Mr.M.N.Dhamal for the Appellant.

CORAM: A.S.OKA, J.
DATED: JANUARY 19, 2005.

P.C.:

1. This Appeal is by unsuccessful Plaintiff in a suit for perpetual injunction. Both the Courts below on the basis of evidence on record have recorded a concurrent finding that the Appellant has failed to prove exclusive possession.

2. There is a finding recorded by the Appellate Court that Bapu, the father of the Appellant and Respondent No.1 was in cultivation of the suit property on the tiller's day. In absence of any evidence of partition between the legal representatives of Bapu, the learned Judges of the Courts below have declined to accept the case that the Appellant was in exclusive possession.

3. The findings of the Courts below are based on legal evidence on record. There is no perversity in the findings of the Courts below. Second Appeal is dismissed with no order as to costs.

Judge.